

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 23 MAY 2005

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Applicant's or agent's file reference 525.1089PCT	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US04/18463	International filing date (day/month/year) 10 June 2004 (10.06.2004)	Priority date (day/month/year) 11 June 2003 (11.06.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(7): G06K 7/10 and US Cl.: 235/462.01			
Applicant BPSI HOLDINGS, INC.			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. ☐ (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand 16 December 2004 (16.12.2004)	Date of completion of this report 26 April 2005 (26.04.2005)
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer DEBORAH A. THOMAS PARALEGAL SPECIALIST GROUP 1300 Kimberly D. Nguyen Telephone No. 571-272-2402

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/18463

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
 - ☒ the international application as originally filed/furnished
 - ☒ the description:
 - pages 1-14 as originally filed/furnished
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____
 - ☒ the claims:
 - pages 15-17 as originally filed/furnished
 - pages* NONE as amended (together with any statement) under Article 19
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____
 - ☒ the drawings:
 - pages 1-2 as originally filed/furnished
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, Nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to the sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☐ the claims, Nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US04/18463

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims 2, 5, 9, 10, 23, 24 YES

Claims 1,3,4,6-8 and 11-22 NO

Inventive Step (IS)

Claims NONE YES

Claims 1-24 NO

Industrial Applicability (IA)

Claims 1-24 YES

Claims NONE NO

2. Citations and Explanations (Rule 70.7)

Claims 1, 3-4, 6-8, 11-22 lack novelty under PCT Article 33(2) as being anticipated by Nellhaus et al. (US 6,543,692; hereinafter "Nellhaus").

Nellhaus teaches an oral solid dosage form (72 in fig. 10), comprising
a core portion having sufficiently low friability to receive a printed or etched marking on a surface thereof;
a readable printed or etched marking on the surface of the core, the marking providing identification/authentication of the oral dosage form (column 4, lines 25+).

Claims 2, 5, 23-24 lack an inventive step under PCT Article 33(3) as being obvious over Nellhaus in view of Sullivan et al. (US 5,992,742; hereinafter "Sullivan").

Sullivan teaches pill printing and identification having a pill, which has a film (a protein based film) coated prior to the printed or etched marking being applied thereto (column 5, lines 22+, column 11, lines 36+).

Claims 9-10 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Jain et al (US 6,316,029; hereinafter "Jain").

Jain teaches an oral dosage form having covert marking is detectable by aroma or taste (col. 1, lines 46+).